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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/110,661	07/07/1998	LAWRENCE W. KREBS	2779-Z	4961

7590 03/11/2002

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EXAMINER

PHUNKULH, BOB A

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 03/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/110,661

Applicant(s)

KREBS ET AL.

Examiner

Bob A. Phunkulh

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2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### DETAILED ACTION

The finality of the previous Office Action (paper no. 8) is hereby withdrawn.

This communication is in response to applicant's 12/21/2001 Appeal Brief in the application of **KREBS et al.** for "**ATM NETWORK MANAGEMENT SYTEM**" filed 07/07/1998. The amendments/response to the claims have been entered. No claims have been canceled. No claims have been added. Claim 1 is now pending.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hearn et al. (US 5,640,505) in view of Admitted Prior Art.

Regarding claim 1, Hearn et al. disclose a system relates to an operational support structure for a telecommunications network. The system comprises of a problem manager 143 (*fault manager*) for receiving fault report from the other domains, using information contained in the database 130 concerning the network topology, it correlates these faults and identifies the problems which are causing them. It many receives reports of faults from a set of switches and also a set of multiplexers. By retrieving data on the network topology from the database 130, it can correlate these faults end might identify the problem which is causing the faults as being caused by

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failure of a particular multiplexer. The Identified problems are recorded in the database 136, and the manager 143 sends instructions (*recommendation*) to the traffic manager 138, the service domain 14 or the traffic domain 18 to restore lost services and to remove problems (**see figs. 2, 5; and col. 11 lines 21-34**). Hearn et al., further disclose, this could be implemented in an ATM network (**see col. 7 lines 36-52**).

The traffic manager 138 also identifies traffic problems such as congestion on the network topology from database 130, data on traffic usage from database 132 and network problems from database 136, the traffic manager 138 finds solutions to traffic problems and then sends appropriate instructions to the other domain so as to reduce or overcome the problem (see col. 11 lines 37-47). The database 134 contains rules which are used in planning the network (see col. 11 lines 12-20).

Hearn et al. did not explicitly disclose that the ATM management network includes security management.

In page 2 line 4-7 of the specification, the Applicant admits that a "classical" definition of network management includes security management.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to include the security management the system taught by Hearn for providing secure transmission of customers account information in the network.

### ***Response to Arguments***

Applicant's arguments filed 12/21/2001 have been fully considered but they are not persuasive.

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In response to the Applicant's Argument of in page 4, claim 1 is not Jepson claim. The Applicant admits that:

*In a Jepson claim, the word in both the preamble describing the prior art and those elements constituting the improvement are substantive claim limitations (see page 5 of Appeal Brief).*

*A "classical" definition of network management gives five major functional area: fault management, configuration management, performance management, security management, and accounting management (see page 2 lines 4-7 of specification).*

In response to the Applicant's Argument of "expert system" in page 6, Hearn discloses that the traffic manager 138 also identifies traffic problems such as congestion on the network topology from database 130, data on traffic usage from database 132 and network problems from database 136, the traffic manager 138 finds solutions to traffic problems and then sends appropriate instructions to the other domain so as to reduce or overcome the problem (see col. 11 lines 37-47). The database 134 contains rules which are used in planning the network (see col. 11 lines 12-20). The functions describes above are consistent with the definition of "expert system" described in Newton's Telecom Dictionary.

### **Conclusion**

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

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(703) 305-9051, (for formal communications intended for entry)

Or:

(703) 308-5403 (for informal or draft communications, please labels  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021  
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(703)**  
**308-8251**. The examiner can normally be reached on Monday-Friday from 8:00 A.M. to  
4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor **Douglas W. Olms**, can be reach on **(703) 305-4703**. The fax phone number  
for this group is **(703) 872-9314**.

**Bob A. Phunkulh**

Bob A. Phunkulh

TC 2600  
Art Unit 2661  
March 7, 2002

*Per 3/8/02*  
**DAVID VINCENT**  
**PRIMARY EXAMINER**